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2 The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday,  
3 August 10, 2010 at Westfield City Hall. Members present included Dan Degnan, Randy  
4 Graham, Bill Sanders, Craig Wood, and Martin Raines. Also present were Matthew Skelton,  
5 Director; Kevin Todd, Senior Planner; and City Attorney, Brian Zaiger.  
6  
7

8 **APPROVAL OF MINUTES**  
9

10 Wood moved to approve the July 13, 2010 minutes as presented.  
11

12 Raines seconded, and the motion passed by voice vote.  
13

14 Sanders reviewed the Public Hearing Rules and Procedures.  
15  
16

17 **NEW BUSINESS**  
18

19 **1007-VS-04**  
20 **PUBLIC HEARING**

**800 Sycamore Street; *Montessori School of Westfield***

The Appellant is requesting a Variance of Standard from the Westfield-  
Washington Zoning Ordinance for property located in the LB District.  
The requested variances are as follows:

- 23 1. WC 16.06.060, B; reduction of western buffer yard from 40 feet to 5  
24 feet;
- 25 2. WC 16.06.060, C; reduction of buffer yard shrub requirement from  
26 72 to 0 evergreen shrubs; and
- 27 3. An amendment to Variance Case 0404-VS-05 to modify a condition  
28 regarding site access.  
29  
30  
31

32 Todd introduced the petition which is a reduction in the western buffer yard, a reduction in the  
33 eastern buffer yard shrub requirements, and an amendment to modify a previous condition of  
34 case 0404-VS-05. He further stated that staff is recommending a modification to the first request  
35 to 30 feet from 5 feet. He also stated that the Board needs to determine tonight if the condition  
36 for a second means of access is still applicable today. He added that the Westfield Fire  
37 Department has reviewed the access and has determined there would be no problem accessing  
38 the property as is today if there was an emergency.  
39

40 Mr. William Lyman, owner of the Montessori School of Westfield, stated that they have  
41 improved the property by adding trees, bushes and flowers. He also noted that the school has  
42 had a positive financial impact on the City of Westfield.  
43

44 Wood asked about the student population.  
45

46 Lyman responded that there are about 74 students, twelve of which come to school with their  
47 parent/teachers. He added that there is quite a bit of carpooling, which reduces the traffic flow.  
48

1 Wood asked if Lyman believes that the number of students will remain relatively constant over  
2 the next five to ten years.

3  
4 Lyman responded that he thought that it would over the next five years, but could not be certain  
5 over the next ten years.

6  
7 A Public Hearing opened at 7:20 p.m.

8  
9 Ms. Renada Miller expressed concern about the speed of the traffic that travels on Sycamore  
10 Street to and from the school. She noted that young children play close by and expressed her  
11 concern with providing a second access.

12  
13 The Public Hearing closed at 7:21 p.m.

14  
15 Discussion followed regarding whether a speed bump should be installed by the Westfield Public  
16 Works Department to help limit speeds.

17  
18 After further discussion, Sanders stated that this sounds like it may be more of an enforcement  
19 issue.

20  
21 Discussion followed regarding the reduction of the buffer yard.

22  
23 Sanders moved to approve a reduction for the western buffer yard from 40 feet to 30 feet.

24  
25 Degnan seconded, and the motion passed 5-0.

26  
27 Raines moved to amend the site access condition of 0404-VS-05 to provide an exception for the  
28 proposed building addition (1006-DP-05).

29  
30 Wood seconded, and the motion passed 4-1 (Graham).

31  
32 Raines moved to approve the reduction of the eastern buffer yard shrub requirement from 72 to 0  
33 evergreen shrubs.

34  
35 Wood seconded, and the motion passed 5-0.

36  
37 Raines moved to adopt staff's finding of fact.

38  
39 Degnan seconded, and the motion passed by voice vote.

40  
41 Skelton stated that he would speak with the Director of Public Works as well as the Westfield  
42 Police Chief regarding the speed limit issues discussed.

43  
44  
45 **1007-AA-01**  
46 **PUBLIC HEARING**

**516 West Main Street; GasAmerica Services, Inc.**  
The Appellant is appealing Administrative Determination cases  
1004-AD-02 and 1007-AD-03 regarding signage.

1  
2 Zaiger stated that one of the Board's responsibilities is to hear appeals of Administrative  
3 Determination made by the Director of Community Development. He further suggested that the  
4 Board should allow the Director to address the Board first, and explain the decision; then the  
5 Appellant will explain why they disagree with that interpretation of the City's code; after a  
6 public hearing is held and any questions are answered, the Board will make a decision on  
7 whether to overrule the determination made by the Director, modify it, or overturn it altogether.  
8

9 Skelton reviewed the information stating that 1004-AD-02 and 1007-AD-03 were regarding  
10 proposed signage for the location, including changing the signs on the existing pole structure and  
11 using an LED form of illumination for gas prices. Skelton further stated that pole signs are not  
12 permitted in Washington Township, and that this particular sign is referred to as a preexisting,  
13 non-conforming structure. He referred to the zoning ordinance, which states that a lawfully non-  
14 confirming structure shall either be removed or brought into compliance at such time when new  
15 development or new expansion is proposed or when new signage is proposed. Skelton  
16 determined that changing out the sign panels is, in fact, changing the signage.  
17

18 Skelton explained that for many years there have been requests for LED types of illumination for  
19 signage, which have been denied by the City. He stated that he has reviewed the standards and  
20 have found items addressed in the code which prohibit LED illumination.  
21

22 Mr. Brian Tuohy, representing the petitioner, stated the GasAmerica store has been in the current  
23 location for 36 years. He further stated the store is in the process of rebranding the company to  
24 call it GasAmerica Marketplace; therefore, they want to improve the store and show that rebrand  
25 on the exact same sign panel and the exact same sign structure. He added that the gas price light  
26 on the canopy does not blink, flash, or rotate, and is not bright and is not a laser which shoots  
27 above the horizon. He also stated the current pole sign is 63 square feet and is lit and the  
28 proposed sign is 48 square feet.  
29

30 Wood asked if new panels and LED signs were in place at any other GasAmerica location.  
31

32 Touhy responded that there were, and listed several locations.  
33

34 Wood asked if the petitioner had to go through similar proceedings in each case.  
35

36 Touhy responded not in every jurisdiction, but some.  
37

38 Skelton reviewed the sign standards and explained the line of thinking and the administrative  
39 determination as to sign structure and support.  
40

41 Sanders asked what about WC 16.08.010, N where it states, "allows the replacement of sign  
42 panels."  
43

44 Skelton responded that that code refers to a non-residential center sign where tenants come and  
45 go. He further stated that staff did not consider this because it does not apply to a single user.  
46

47 A Public Hearing opened at 8:50 p.m.  
48

1 Mr. Steve Hoover stated this interpretation has been applied in the past, and that this is clearly a  
2 change in signage. He further stated if the City's intent is to get rid of pole signs and we allow  
3 changes to those pole signs, the City will never get rid of them. Hoover objects to the precedent  
4 this will set in the community.

5  
6 The Public Hearing closed at 8:53 p.m.

7  
8 Discussion followed regarding the interpretation of "maintenance."

9  
10 Degnan moved to affirm the Community Development Director's decision in 1004-AD-02 that  
11 there is a proposal to change signage.

12  
13 Graham seconded, and the motion failed 2-3 (Wood, Raines, Sanders)

14  
15 Wood moved to overturn 1004-AD-02.

16  
17 Discussion followed regarding interpretation of whether the existing sign structure or support  
18 includes the sign panel.

19  
20 Raines seconded, and the motion passed 3-2 (Graham, Degnan)

21  
22 Zaiger reviewed the findings of fact and the Board made the decision to make this specific to this  
23 sign proposal.

24  
25 Sanders moved to adopt the amended findings of fact.

26  
27 Wood seconded, and the motion passed 3-1-1 (Degnan) (Graham).

28  
29 Wood moved to affirm 1007-AD-03.

30  
31 Sanders seconded, and the motion passed 3-2 (Degnan, Raines).

32  
33 Sanders moved to adopt staff's finding of fact.

34  
35 Wood seconded, and the motion passed 3-2 (Degnan, Raines).

36  
37 Skelton announced that Kalorama Park PUD and an amendment to the Maples at Spring Mill project were  
38 both passed by the Council.

39  
40 Sanders suggested that the Advisory Plan Commission amend the sign ordinance on the  
41 structure/support issue to include sign panels.

42  
43 The meeting adjourned at 9:30 p.m.

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47 \_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary